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09/597,428	06/20/2000	Evan Stephen Crandall	1999-0375	6129

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EXAMINER
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BAUGH, APRIL L

ART UNIT	PAPER NUMBER
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2141

DATE MAILED: 01/02/2004

7

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/597,428

Applicant(s)

CRANDALL, EVAN STEPHEN

Examiner

April L Baugh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) 13-17 and 30-32 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 18-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_

## DETAILED ACTION

### *Election/Restrictions*

1. Applicant's election without traverse of claims 1-12 and 18-29 in Paper No. 6 is acknowledged.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, 18, and 19 rejected under 35 U.S.C. 102(b) as being unpatentable by US Patent No. 5,701,582 to DeBey.

Regarding claim 1, DeBey teaches a method for outputting a performance (column 1, lines 18-21), comprising: receiving performance information via a network; composing the performance by mixing stored information with one or more portions of the received performance information (column 4, lines 24-29); and outputting the performance (column 12, lines 13-54 and column 17, lines 6-38).

Regarding claim 18, DeBey teaches a pseudo-live performance output device (column 1, lines 18-21), comprising: a controller that receives performance information via a network and composes the performance by mixing stored information with one or more portions of the

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received performance information (column 4, lines 24-29); and an output device that outputs the performance (column 12, lines 13-54 and column 17, lines 6-38).

Regarding claims 2 and 19, DeBey teaches the method of claim 1 and 18, further comprising: recording the performance information; and outputting a second performance using the recorded performance information as stored information (column 1, lines 30-34 and column 6, lines 26-32).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 3-12 and 20-29 rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 5,701,582 to DeBey in view of Yoneda et al.

Regarding claims 3 and 20, DeBey teaches the method of claim 1 and 18 (column 12, lines 13-54 and column 17, lines 6-38).

DeBey does not teach of commands. Yoneda et al. teaches the composing the performance comprising: retrieving one or more commands from the performance information (column 3, lines 10-19); decoding the one or more commands (column 4, lines 13-20); and performing one or more tasks instructed by the commands (column 3, lines 18-27). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to

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further modify the method for efficient transmissions of programs by retrieving one or more commands and performing one or more tasks instructed by the commands because these commands direct the system on how to reassemble and manipulate the video data and display the data for the user.

Regarding claims 5 and 22, DeBey teaches the method of claim 4 and 21 (column 12, lines 13-54 and column 17, lines 6-38).

DeBey does not teach commands. Yoneda et al. teaches wherein executing the macro comprises: retrieving the macro based on the decoded one or more commands (column 3, line 66 through column 4, line 7); decoding the macro to generate a macro command sequence; and executing the macro command sequence (column 4, lines 13-20). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the method for efficient transmissions of programs by retrieving the macro based on the decoded one or more commands and executing the macro command sequence because these commands direct the system on how to reassemble and manipulate the video data and display the data for the user.

Regarding claims 6 and 23, DeBey teaches the method of claim 5 and 22 (column 12, lines 13-54 and column 17, lines 6-38).

DeBey does not teach commands. Yoneda et al. teaches wherein executing the respective commands comprises one or more of: generating a sequence of commands for outputting the performance (column 2, lines 20-31 and 46-64). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the method for efficient transmissions of programs by generating a sequence of commands for

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outputting the performance because these commands direct the system on how to reassemble and manipulate the video data and display the data for the user.

Regarding claims 9 and 26, DeBey teaches the method of claim 3 and 20 (column 12, lines 13-54 and column 17, lines 6-38). Yoneda et al. teaches further comprising: executing programming commands; generating a sequence of commands based on the executed programming commands; and incorporating the decoded commands into the sequence of commands (column 13, line 62 through column 14, line 4 and column 15, lines 4-11). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the method for efficient transmissions of programs by incorporating the decoded commands into the sequence of commands because these commands direct the system on how to reassemble and manipulate the video data and display the data for the user.

Regarding claims 10 and 27, DeBey teaches the method of claim 9 and 26 (column 12, lines 13-54 and column 17, lines 6-38) and wherein incorporating the decoded commands includes the one or more portions of the performance are added onto, interrupted, switched or replaced (column 3, lines 25-31 of DeBey) based upon the incorporated decoded commands.

DeBey does not teach commands. Yoneda et al. teaches wherein incorporating the decoded commands includes adding onto, interrupting, switching or replacing one or more commands within the sequence of commands (column 11, lines 59-64). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the method for efficient transmissions of programs by adding onto, interrupting, switching or replacing one or more commands within the sequence of commands because these commands direct the system on how to reassemble and manipulate the video data and display the

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data for the user and commands may be updated by the user or system and therefore need to be incorporated into the sequence of commands to allow the system to operate in real-time.

Regarding claims 4 and 21, DeBey teaches the method of claim 3 and 20, wherein performing the one or more tasks comprises executing a macro (column 8, lines 31-46 of DeBey).

Regarding claims 7 and 24, DeBey teaches the method of claim 5 and 22, wherein executing the macro command sequence comprises: retrieving audio and/or video synthesis information; retrieving information indicating desired output content; and generating synthesized performance information based on the audio and/or video synthesis information and the information indicating the desired output content (column 5, lines 26-33 and column 11, lines 24-33 of DeBey).

Regarding claims 8 and 25, DeBey teaches the method of claim 3 and 20, wherein performing the one or more tasks comprises reproducing a real-time transmission included in the performance information (column 1, lines 55-65 of DeBey).

Regarding claims 11 and 28, DeBey teaches the method of claim 3 and 20, wherein performing one or more tasks comprises: retrieving audio and/or video synthesis information; retrieving information indicating desired output content; and generating synthesized performance information based on the audio and/or video synthesis information and the information indicating the desired output content (column 5, lines 26-33 and column 11, lines 24-33 of DeBey).

Regarding claims 12 and 29, DeBey teaches the method of claim 3 and 20, wherein the one or more commands includes one or more of programming commands that execute a software program, housekeeping commands that load, delete, change or overlay stored information

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(column 3, lines 25-31 of DeBey), and performance commands that instruct to reproduce stored information from one or more specified locations of a storage device (column 6, lines 41-40 and 62-65 of DeBey).

***Conclusion***

1. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patent is cited to further show the state of the art with respect to pseudo-live performances in general:


US Pat No. 5,455,626 to Xu et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to April L Baugh whose telephone number is 703-305-5317. The examiner can normally be reached on Monday-Friday 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal D Dharia can be reached on 703-305-4003. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

ALB

  
**RUPAL DHARIA**  
**SUPERVISORY PATENT EXAMINER**